

EXHIBIT M



VACIR
Virginia Coalition
for Immigrant Rights

August 20, 2024

Via Email

FOIA Officer
Office of the Governor
Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219
foia@governor.virginia.gov

FOIA Coordinator
Department of Elections
Washington Building
1100 Bank Street, First Floor
Richmond, VA 23219
foia@elections.virginia.gov

FOIA Officer
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219
foia@oag.state.va.us

FOIA Officer
Department of Motor Vehicles
Data Management Services
Attn: FOIA
P.O. Box 27412
Richmond, VA 23269
foia@dmv.virginia.gov

Dear FOIA Officers,

We are writing your offices pursuant to the Virginia Freedom of Information Act (“VFOIA”), Va. Code § 2.2-3700 *et seq.*, and the Public Disclosure of Voter Registration Activities provision of the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20507(i), to request copies of all records relating to the removal from the voter registration rolls of Virginia registered voters on the basis that they have been identified as a “non-citizen.” According to Executive Order Number Thirty-Five (2024), issued August 7, 2024, and titled “Comprehensive Election Security Protecting Legal Voters and Accurate Counting” (hereinafter “EO-35”), attached for reference, 6,303 alleged non-citizens were removed from the voter rolls between January 2022 and July 2024.

Please respond individually to each of the numbered requests below noting whether (1) responsive records have been provided, (2) no responsive records exist, or (3) responsive records exist but are being withheld. If a record does not exist, or exists but is not in the possession of your office, please explicitly say so, and indicate which office, if any, is in possession of the record, including the proper custodian’s name and email address. Please provide partially redacted records wherever non-exempt information is commingled with exempt information, and provide detail to the fullest extent possible the subject and volume of any withheld information. If responsive records are withheld in full or redacted in part, please specify each statutory exemption you believe justifies the nondisclosure and provide a description of the contents withheld, including subject matter, number of pages, and the date(s) of the record(s).

Please include any responsive records in the possession of your office, regardless of who created them. This request covers all records from January 15, 2022, through the date of your response. Specifically, we request:

1. All records relating to the removal from the voter registration rolls of Virginia registered voters on the basis that they have been identified as a non-citizen, including, but not limited to, all notes, correspondence, emails, memoranda, reports, drafts, studies, proposals, requests, agendas, call logs, calendar entries, transcripts, minutes, budgetary and financial documents, and electronic and other data used for the identification and removal from the voter registration rolls of Virginia registered voters on the basis of non-citizenship, and other records of any kind. Specifically, and at a minimum, this should include:
 - a. All communications between your offices and between your offices and local registrars relating to the removal from the voter registration rolls of Virginia registered voters on the basis that they have been identified as a non-citizen.
 - b. All records relating to the “multi-agency data-sharing protocols and standards developed by the working group called for in Executive Order [31],” including all records evidencing all aspects of the process used to “ensure the accuracy, reliability, privacy, and timeliness of the data used for list maintenance,” as described in EO-35.
 - c. All “data collected by the DMV that identifies non-citizens,” as described in EO-35, and all other records evidencing any other data or information, including the sources of any and all data and other information, used by any of your offices to identify Virginia registered voters who are potential non-citizens.
 - d. All records evidencing all aspects of the process by which the Department of Motor Vehicles, “[w]hen issuing a credential such as a driver’s license... verifies applicants’ proof of identity and legal status with the Department of Homeland Security Systematic Alien Verification for Entitlements (SAVE) database and the Social Security Administration database,” as described in EO-35, including any memoranda of understanding or other agreements by any of your offices with any other state or federal agency related to the use of SAVE or any other program or database related to the identification of potential non-citizens.
 - e. All records evidencing all aspects of the processes by which the Department of Elections “uses [data from the DMV] to scrub existing voter rolls and remove non-citizens who may have purposefully or accidentally registered to vote,” “[r]emove[s] individuals who are unable to verify that they are citizens to the Department of Motor Vehicles from the statewide voter registration list,” and “compares the list of individuals who have been identified as non-citizens to the list of registered voters and then registrars notify any matches of their pending cancellation unless they affirm their citizenship within 14 days,” as described in EO-35, including the process by which the Department of Elections confirms that the individuals identified as potential non-citizens are in fact non-citizens and that these individuals do in fact correctly “match” the individual registered voters.

- f. All records relating to any individual erroneously identified as a potential non-citizen, including any individuals who established their citizenship following receiving a notice, the means by which their citizenship was established or otherwise confirmed, and any steps taken by your offices to ensure that this same type of error is not repeated.
 - g. All records relating to public communications concerning the identification and removal from the voter registration rolls of Virginia registered voters on the basis that they are a potential non-citizen, including all records evidencing your office's awareness of the potential effects of such public communications in intimidating or otherwise dissuading eligible voters from registering to vote or voting.
2. All records relating to the development and establishment of Virginia's current policy and process for the removal from the voter registration rolls of Virginia registered voters on the basis that they have been identified as a non-citizen, including, but not limited to, all notes, correspondence, emails, memoranda, reports, drafts, studies, proposals, requests, agendas, call logs, calendar entries, transcripts, minutes, budgetary and financial documents, and electronic and other data, and other records of any kind.
3. All records relating to any investigation by any of your offices of alleged non-citizens for registering to vote or voting, including any actions taken by your offices to refer alleged non-citizens for investigation by Commonwealth's Attorneys or any other offices.
4. All mail and electronic communications between your office and any Virginia registered voters who have been identified as potential non-citizens, including both prior to removal and upon or after removal, and including any return communications from the voter. A representative sample of each form letter or electronic communication may be provided in lieu of individual communications where the form does not differ across communications and where there is no response from the voter.
5. All records evidencing the supervision, reporting structure, training, and guidelines provided to the staff assigned by your office to any aspect of the process for the identification and removal from the voter registration rolls of Virginia registered voters on the basis that they are a potential non-citizen, including, but not limited to, all guidelines, procedures, policies, practices, manuals, training program and materials, and other records governing the staff assigned to any aspect of the process, including all drafts and final versions of said records.
6. An electronic spreadsheet containing a list of all Virginia registered voters who have been removed from the voter registration rolls on the basis that they have been identified as a "non-citizen" since January 15, 2022, and all information contained in the voter file for each individual, including, but not limited to, the initial date of registration, the method of registration, the date(s) of any change(s) in their voter registration status, their voting history, the date of removal, the source and nature of any information used to determine their citizenship status, and the date(s) of any correspondence with the voter.

We prefer to receive copies of all records electronically, so long as the records are legible. Please send all responsive documents via email to monica@vacir.org, and please copy the individuals listed in the cc section of this request. Consistent with the VFOIA and NVRA, we are prepared to pay for the actual and reasonable costs of collection and copying the requested records, and



ask that you provide an estimate of such costs, should they exceed \$200, in advance of supplying the requested records.

Consistent with the VFOIA, your office must respond to this request within five (5) working days beginning the day after receipt. If it is logistically impossible for you to fully respond to this request within the five-day period, your office must state this in writing and explain the circumstances necessitating an extension of no more than seven (7) additional working days to fully respond.

Thank you for your attention and cooperation with this request.

Sincerely,

Monica Sarmiento
Executive Director
Virginia Coalition for Immigrant Rights
monica@vacir.org

cc:

Ryan Snow (rsnow@lawyerscommittee.org)

Javon Davis (jdavis@lawyerscommittee.org)



*Commonwealth of Virginia
Office of the Governor*

Executive Order

NUMBER THIRTY-FIVE (2024)

COMPREHENSIVE ELECTION SECURITY PROTECTING LEGAL VOTERS AND ACCURATE COUNTING

By virtue of the authority vested in me as Governor, I hereby issue this Executive Order to protect the casting of legal ballots by legally eligible voters in Virginia's elections, including with stringent ballot security, complete and thorough counting machine testing, and best-in-the-nation voter list maintenance.

Importance of Initiative

In Virginia, we have established a comprehensive approach and continuous improvement process for election security, which is necessary to ensure that individuals cast legal votes. The Virginia model for securing elections has proven itself over the past few years despite the significant expansion of voting days and locations and the lingering effects of the pandemic on state and local governments. Under my Administration, Virginia has made unprecedented strides in improving the accuracy of our voter list including substantial updates for removal of deceased voters and protection against non-citizen registration.

Recent improvements we have made include establishing comprehensive data-sharing agreements with seven states and receiving additional data from 42 states.

We conducted multiple National Change of Address mailings over the past two years and will continue to conduct them. This process identifies individuals who no longer reside in Virginia. The streamlined process for eliminating deceased voters includes accessing a national death record database and conducting a comprehensive audit. This resulted in us removing 79,867 deceased voters in 2023.

Virginia is one of only three states in the nation that require those registering to vote to provide their full 9-digit social security number for registration. Over ninety percent of voters in Virginia submit electronic registration applications online through the Department of Elections (ELECT), which requires a valid Department of Motor Vehicles (DMV) credential, or submit registration applications when conducting transactions with DMV.

DMV requires applicants to submit proof of identity and legal presence for those that do not yet hold a valid Virginia credential. When issuing a credential such as a driver's license, DMV verifies applicants' proof of identity and legal status with the Department Homeland Security Systematic Alien Verification for Entitlements (SAVE) database and the Social Security Administration database.

All data collected by the DMV that identifies non-citizens is shared with ELECT, which uses it to scrub existing voter rolls and remove non-citizens who may have purposefully or accidentally registered to vote. According to data from ELECT, between January 2022 and July 2024, records indicate we removed 6,303 non-citizens from the voter rolls.

Executive Order 31 reinforced the need for timeliness of interagency data. The multi-agency data sharing protocols and standards developed by the working group called for in the Executive Order ensure the accuracy, reliability, privacy, and timeliness of the data used for list maintenance.

The audits we conduct of Virginia's list maintenance practices have not only been effective but have also earned national recognition for robust list maintenance improvements and new initiatives. This recognition is a testament to the fairness, transparency, and legality of Virginia's voting process, which includes:

- 100% paper ballots which provide a physical record of the voter's intent
- Use of paper ballot counting machines, not voting machines
- Strict chain of custody for ballots with daily reconciliation during early voting
- Application required to receive a mail ballot - no mass mailing of ballots
- Counting machines tested prior to every election
- Counting machines not connected to the internet
- Drop boxes under 24/7 monitoring

As we continue to make improvements, the Commonwealth will remain steadfast in its efforts to provide Virginians with the confidence they deserve in their elections. Our election security model is designed to prevent illegal votes and guarantee legal votes are accurately counted. However, security procedures can only be as strong as the state and federal law which governs voting. Further strengthening of Virginia's election security system will rely on strengthening state and federal law.

Directive

Accordingly, pursuant to the authority vested in me as the Chief Executive Officer of the Commonwealth, and pursuant to Article V of the Constitution of Virginia and the laws of the Commonwealth, I hereby direct all relevant Secretariats and Agencies to take the following actions:

Certification of Election Security Procedures

In order to maintain the collaboration and coordination between internal and external parties necessary to maintain the highest level of security, the Commissioner of the Department of

Elections shall certify annually in writing to the Governor that the following election security procedures are in place, including the training of registrars regarding these critical procedures, and that the Commonwealth's system of checks and balances to maintain secure elections is functioning optimally.

1. Ballot Security:

- a. There is a documented chain of custody for paper ballots with daily reconciliation during early voting.
- b. Ballots are tracked through every step of the process.
- c. In precincts on election day and during early voting, ballots cast are reconciled against the number of voters checked in and number of ballots distributed to voters.
- d. Absentee ballots must be requested by a registered voter before being mailed.
- e. Marked absentee ballots may not be counted until the last four digits of a voter's social security number and year of birth provided on the envelope are matched to the voter's record in the statewide voter registration system.
- f. Use of provisional ballots for the Same Day Registration process, which requires that these ballots are not counted in the precinct but go back to the registrar's office for determination of eligibility and adjudication by the Electoral Board.
- g. 100% paper ballots are used in Virginia and are retained by clerks of court for 22 months.

2. Counting Machine Testing and Certification

- a. Virginia does not use "voting machines" just paper ballot counting machines.
- b. No ballot counting machines are connected to the internet.
- c. All counting machines are certified to state and federal standards.
- d. Every piece of equipment utilized in the voting and counting process, such as electronic pollbooks, is tested before use in a polling place.

3. Triple-Check of Election Result Accuracy

- a. Officers of election check election results at the precinct level on election night.
- b. Electoral Boards check elections results at the locality level in the post-election canvass.
- c. Department of Elections staff check elections results at the state level through results review and audits prior to certification.

Certification of Accuracy of Voter Lists

The Commissioner of the Department of Elections shall certify in writing to the Governor that the following election security procedures are in place to protect voter lists:

1. Daily Updates to the Voter List to:

- a. Add new eligible voters.
- b. Remove voters who have moved in accordance with federal and state law.
- c. Remove deceased voters.

- d. Remove ineligible voters, including felons and mentally incapacitated.
 - e. Remove individuals who are unable to verify that they are citizens to the Department of Motor Vehicles from the statewide voter registration list, should that individual either intentionally or unintentionally attempt to register to vote, in accordance with federal and state law.
 - f. The Department of Elections compares the list of individuals who have been identified as non-citizens to the list of existing registered voters and then registrars notify any matches of their pending cancellation unless they affirm their citizenship within 14 days.
2. When issuing a credential such as a driver's license, DMV verifies applicants' proof of identity and legal status with the Department Homeland Security Systematic Alien Verification for Entitlements (SAVE) database and the Social Security Administration database.

Referral for False Claims of Citizenship

The Department of Motor Vehicles shall expedite the interagency data sharing with the Department of Elections of non-citizens by generating a daily file of all non-citizens transactions, including addresses and document numbers.

In accordance with the *Code of Virginia* § 24.2-429, all registrars are required to cancel the registrations of non-citizens who have registered to vote in a local, state, or federal election by falsely claiming that they are a citizen, including the forging of documentation or any other means of improper registration. *Code of Virginia* § 24.2-1019 additionally requires said registrars to immediately notify the Commonwealth's Attorney for their jurisdiction of this alleged unlawful conduct. Additionally, the Office of the Attorney General has full authority to enforce election laws pursuant to *Code of Virginia* § 24.2-104.

Awareness Campaign for Election Security

The Department of Elections shall encourage and provide information to all general registrars to post or provide to voters directly regarding election-related offenses and their punishments (Title 24.2, Chapter 10 of the *Code of Virginia*), including:

- § 24.2-1000. Intimidation and threats toward election officials; penalty.
- § 24.2-1002.1. Unlawful disclosure or use of social security number or part thereof.
- § 24.2-1004. Illegal voting and registrations.
- § 24.2-1009. Stealing or tampering with ballot containers, voting or registration equipment, software, records or documents.
- § 24.2-1007. Soliciting or accepting bribe to influence or procure vote.
- § 24.2-1016. False statements; penalties.

All state agencies that register individuals to vote shall post the aforementioned information in a conspicuous place or provide it to applicants directly.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7th day of August, 2024.




Glenn Youngkin, Governor

Attest:


Kelly Gee, Secretary of the Commonwealth